

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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VICTOR M. BETANCOURT-ALGARIN,	:	
	:	
Plaintiff,	:	<u>MEMORANDUM DECISION</u>
	:	<u>AND ORDER</u>
-against-	:	
	:	20 Civ. 9327 (GBD) (BCM)
KIJOLO KIJAKAZI, Acting Commissioner of	:	
Social Security,	:	
	:	
Defendant.	:	
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GEORGE B. DANIELS, United States District Judge:

Plaintiff Victor M. Betancourt-Algarin brings this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of the Commissioner of Social Security's (the "Commissioner") decision to deny Plaintiff disability insurance benefits. (*See* Complaint ("Compl."), ECF No. 1.) Plaintiff moved for summary judgment pursuant to Federal Rules of Civil Procedure 56(a) and Defendant cross-moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (*See* ECF Nos. 14, 21.)

Before this Court is Magistrate Judge Barbara C. Moses's August 5, 2022 Report and Recommendation (the "Report"), recommending that Plaintiff's motion for summary judgment be granted and the case remanded for further proceedings, and that Defendant's motion for judgment on the pleadings be denied. (*See* Report, ECF No. 24, at 22.) Magistrate Judge Moses informed the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*See* Report at 23.) No timely objections have been filed.

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*,

414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when, “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation and internal quotation marks omitted).

Magistrate Judge Moses concluded that the administrative law judge (“ALJ”) committed several errors in determining whether Plaintiff is eligible to receive disability insurance benefits. Specifically, Magistrate Judge Moses found that the ALJ failed to consider all the medical opinion evidence in direct contravention of the law, (*see* Report at 16–20), and resultantly, that the ALJ’s decision was not supported by substantial evidence, (*id.* at 20). Further, the ALJ failed to explain how he evaluated the persuasiveness of the medical opinion evidence, specifically as to the supportability prong, in accordance with 20 C.F.R. § 404.1520c. (*Id.* at 20–21.)

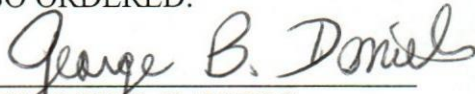
Magistrate Judge Moses’s findings regarding the administrative law judge’s decision are well-reasoned and grounded in fact and law. This Court has reviewed the Report, and finds no error, clear or otherwise. Accordingly, Magistrate Judge Moses’s Report is ADOPTED.

Plaintiff’s motion for summary judgment, (ECF No. 14), is GRANTED. Defendant’s motion for judgment on the pleadings, (ECF No. 21), is DENIED. The ALJ’s decision is reversed and this matter is remanded for further proceedings consistent with this opinion.

The Clerk of Court is directed to close ECF Nos. 14 and 21 accordingly.

Dated: August 30, 2022  
New York, New York

SO ORDERED.

  
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GEORGE B. DANIELS  
United States District Judge